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COMMUNICATIONS INFOMATICS
COMPANY (CIC)
DATABASE SERVICES

March 20, 1995

WRITER'S DIRECT DIAL NUMBER:

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EX PARTE

VIA HAND DELIVERY

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
Room 222
1919 M Street, NW
Washington, D.C. 20036

RECEIVED

MAR 20 1995

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

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RE: Home Owners Long Distance, Inc.
CC Docket No. 94-129, In re Unauthorized Changes in Consumers' Long
Distance Carriers Companies

Dear Mr. Caton:


Pursuant to the FCC's ex parte rules, and on behalf of Home Owners Long Distance, Inc., we hereby submit for inclusion in the above referenced files a letter being hand-delivered this same date to Ms. Mary Beth Richards, Deputy Bureau Chief of the Common Carrier Bureau. This letter is being sent to Ms. Richards in anticipation of a meeting to be held on March 21, 1995.

Should there be any questions with respect to this matter, please contact the undersigned.

Sincerely,


Julia A. Waysdorf
Counsel for Home Owners Long Distance, Inc.

Enclosure

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List A B C D E

HOME OWNERS LONG DISTANCE, INC.

Ex Parte Presentation on CC Docket No. 94-129

**In re Policies and Rules Concerning Unauthorized Changes
of Consumers' Long Distance Carriers**

March 21, 1995

Home Owners Long Distance, Inc. ("HOLD") is an interexchange resale carrier based in San Antonio, Texas. HOLD provides service on a switchless resale basis, and primarily to residential subscribers.

HOLD submitted initial comments in this proceeding. This presentation is intended to discuss with the Common Carrier Bureau the "real-world" impact of the proposed rules on smaller long distance carriers.

The following is a brief synopsis of the issues that HOLD would hope to discuss:

I. COMBINING LOAS WITH PROMOTIONS CAN AND DOES WORK IN THE REAL WORLD

- ▶ HOLD is concerned that the recent spate of newspaper articles and television news spots on these important issues are providing the FCC with only one view of how the "real world" of small long distance carriers actually operates.
- ▶ HOLD therefore would like to demonstrate to the Bureau that a marketing program that uses combined Letters of Agency and promotional inducements can work effectively for the carrier and still protect the rights and interest of telephone consumers.
- ▶ The importance of a clearly labeled, clearly legible LOA cannot be overstated. But if the FCC adopts rules that ensure that all carriers utilize such clearly understandable LOA documents, further marketing restrictions will not be necessary.
- ▶ HOLD's own marketing program goes a step further and sends all customers for whom a LOA has been received a "Welcome Package" that once again informs the customer that a choice to switch long distance carriers has been made. The customer also is provided with important information on HOLD's services, and a toll-free number is provided for the customer to call with any questions, or to

change its mind about the switch. HOLD does not submit a PIC change for any customer until two and one-half weeks after the Welcome Package has been mailed out to the address listed on the LOA.

II. AUTOMATICALLY ASSUMING THAT PROMOTIONS CARRIED OUT BY SMALL CARRIERS ARE DECEPTIVE AND MISLEADING DOES A DISSERVICE TO THE INDUSTRY AS A WHOLE

- ▶ HOLD also would like to point out to the Bureau that many of the "inducements" that the Commission seems to feel are so misleading to consumers actually serve important social purposes. For example, in the agenda meeting in which the Commission adopted the Notice of Proposed Rulemaking in this docket, the Bureau singled out companies that advertise that a switch to their long distance service will "help find missing children." Contrary to the Bureau's implications, such programs are not inherently deceptive or even confusing. HOLD contributes a portion of its long distance revenues to the National Missing Children's Locate Center in Portland, Oregon. HOLD is extremely proud of the contributions that it has been able to make to this organization. Attached as Exhibit 1 hereto is a letter from the National Missing Children's Locate Center, and a newsletter produced by that organization, both of which attest to the importance of HOLD's contributions to the financial well-being of the organization. Additional materials on this organization, including biographical information on key employees and financial statements, also is available.
- ▶ HOLD's LOA currently contains the language "Help Find Missing Children", and the fact that a portion of long distance revenues is contributed to an organization is disclosed on the LOA. This language is not included on the LOA to deceive consumers and cover up the fact that a switch of carriers will be accomplished if the LOA is executed and returned; neither is the language included to play on the sympathies of consumers. Rather, the language is included to inform consumers of the existence of this program, which HOLD feels is beneficial to consumers. HOLD has already pointed this out to Chairman Hundt in a letter submitted on January 3, 1995. A copy of this letter is attached hereto as Exhibit 2.
- ▶ HOLD certainly is not denying that combining LOAs with promotional inducements is an effective marketing tool that enables smaller carriers to continue to compete in the long distance marketplace. That point was made repeatedly in the comments and reply comments submitted in this proceeding. It is important that the Bureau also be aware of the importance to the competitive marketplace in general, and to residential and small business subscribers in particular, of smaller carriers such as HOLD.

III. FINAL RULES ADOPTED IN THIS PROCEEDING SHOULD NOT FAVOR LARGER CARRIERS

- ▶ The Bureau also should be aware of the **disproportionate** impact on smaller carriers that a prohibition of combined LOAs/inducements will achieve.
- ▶ HOLD is concerned that the final rules adopted may "sacrifice" smaller carriers by prohibiting the use of LOAs that also advertise contest drawings and/or charitable contributions, but permitting the continued use by larger carriers of LOAs that include frequent flyer tie-ins or other similar promotions. Clearly only the larger carriers have the volume of customers to facilitate a deal with a major airline--to permit such promotions to continue, but outlaw promotions on a smaller scale, would be discriminatory and inequitable.

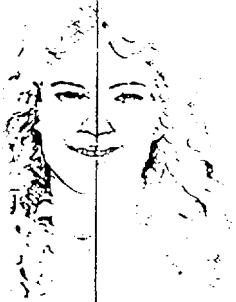
IV. SLAMMING COMPLAINTS OFTEN ARE DUE TO FACTORS NOT IN THE CONTROL OF THE INTEREXCHANGE CARRIER

- ▶ HOLD also would like to discuss some of the other factors, that are not in the control of the interexchange carrier, that frequently lead to complaints by consumers of unauthorized switches. It is hoped that these additional causes will put into a proper perspective the Commission's perception that all such complaints are due to unscrupulous tactics by long distance carriers.

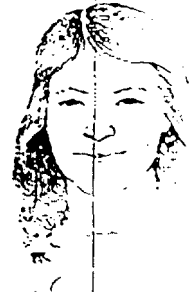
EXHIBIT 1

**MATERIALS ON THE
NATIONAL MISSING CHILDREN'S LOCATE CENTER, INC.**

MISSING

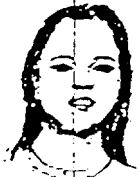


MISSING



PFB-34

YOU KNOW ME?



U-14

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ARILYN S. MANN

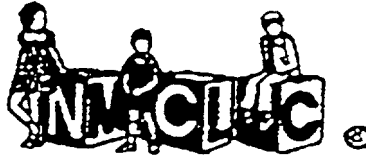
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VICE PRESIDENT
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RY/PUBLIC RELATIONS
MY ENGELGAU

LIC RELATIONS II
BILLY HALE



NATIONAL MISSING CHILDREN'S LOCATE CENTER, INC.
P.O. BOX 20007, PORTLAND, OR. 97220
(503) 257-1308 FAX: (503) 257-1443

H.O.L.D

December 1, 1994

PO BOX 690670

San Antonio, TX 78269

Dear H.O.L.D. Board Members:

We at NMCLC would like to thank H.O.L.D. during these joyous holidays. Before Home Owners Long Distance decided to take on National Missing Children's Locate Center, Inc. as a project, we had to beg to get our pictures distributed. We approached Truckers and asked them to distribute the pictures along the highways. We also had a few volunteers in different states that promised to distribute the pictures for us. Some did. Most didn't.

With HOLD, our pictures are seen in small towns and large cities nationwide. They are on the boxes in different states, in large volume areas such as restaurants, shopping malls and grocery stores. With 3 pictures on each box, times 15,000 boxes, that is a tremendous amount of pictures of MISSING CHILDREN being circulated. Changing the pictures every 3 to 4 months allowed us to receive numerous sighting calls on these children.

NMCLC has received over \$200,000.00 since the beginning of the project. The success of the picture distribution is wonderful. And without HOLD's generous contributions to our organization, we would literally have to close our doors.

NMCLC would like to thank HOLD for taking us on as a project and for all of the donations we have received. The families of these children appreciate the fact that their child's picture is getting out to the public.

Our Board of Directors and employees of NMCLC feel that H.O.L.D as a company really cares. It is one of the few compassionate corporations out there. Without your compassion and money our organization would not exist. Our return and recovery record would be less and we would be back in a small office in a garage.

Page: 2
H.O.L.D.

We are all excited about the new Government agenda "Contract for America". Now corporations are encouraged to fund non-profit organizations instead of the federal government. In a way it is like giving the money back to the people. We feel that a partnership between corporations and non-profits is a very good idea, for all concerned.

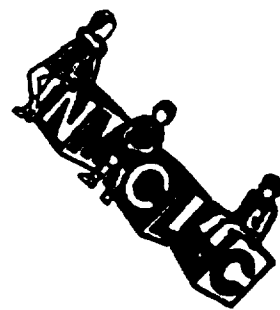
Our future looks pretty bright as long as HOLD is involved. We would like to get more pictures out to the public, that involves more boxes and in the long run, more children recovered.

Again, we at NMCLC would like to thank H.O.L.D. for all of their generosity. Our hearts and prayers are with all of H.O.L.D.'s Board Members, employees and family members during this holiday season. May the new year be a very prosperous one for us both.

Sincerely,
Board of Directors and Employees of NMCLC



"GIVE 'EM BACK" NEWSLETTER OF THE NATIONAL MISSING CHILDREN'S LOCATE CENTER, INC.



JANUARY 1995

39TH EDITION

P.O. BOX 20007, Portland, OR 97220 - Phone (503) 257-1308
NMCLC OTTAWA, CANADA 141 HOLLAND AVE. OTTAWA, ONTARIO K1Y0Y2 (613) 729-7678

P R E S I D E N T ' S FROM THE DESK MESSAGE

Our centers' New Years resolution is hot off the press. Number one is to help more families in 1995 than we have helped in 1994. We accomplish this by focusing on getting the word out to victim families that we are ready, willing and most of the time able to help them search for their MISSING CHILD. We do this through our international poster program, our 8 year old international television show "Give 'Em Back", which plays in 50 cities throughout the USA and Canada.

We never charge the searching parent or victim families anything, it is all free. We raise the funds through corporate partnerships.

Our plan is to have 70 cities showing "Give 'Em Back" by the end of 1995. We would like to have more but our budget won't allow it. We are looking for more corporations to be partners with and display photos of MISSING CHILDREN on their products. After all, isn't that what it is all about? Bringing the children home.

Have a safe and prosperous New Year.

marilyn s. mann



HOLD THAT THOUGHT....

Our center's Vice President and Chief Investigator Stephen Jenkevici visited our largest benefactor, Home Owners Long Distance (HOLD), in San Antonio Texas last month. Stephen met with the executives of HOLD to discuss 1995's goals for NMCLC and HOLD. Stephen was given the tour of their facilities and met the staff.

HOLD displays three MISSING CHILDREN on each box and there are approximately 15,000 boxes in over 25 states. That's 45,000 photo's. NMCLC would like to thank everyone at HOLD for the support of the last 2 1/2 years which has helped us to reunite parents with their children, a big hug to all of you.

Also, thanks to all of the businesses that allow the HOLD boxes in their establishments, without you the photos could not be seen.

Thank you to all the past and present candy machine vendors....

Four years ago we were asked to supply our mini posters of MISSING, LOST and STOLEN CHILDREN, to be used on candy machines nationwide. At the peak of this project there were about 8,000 boxes. Over a year ago the project started sliding backwards. The manufacturer

of the box went out of business. We still have about 50 individual vendors out there representing 500 to 1000 boxes. We would like to thank the past and present vendors and businesses for help in us search for these MISSING KIDS and the money you have donated to our center.

Special thanks to special people.

Mike Stewart, his wife Katie (and their son Justin) recently moved to Oregon from Arizona to telemarket from our office. Their company is M.C. Funding, and they have already raised several thousand dollars for us. Not bad for a few months. Our center needs people like Mike and Katie if we are going to help families reunite with their MISSING CHILDREN. Thanks Mike and Katie.

Special thanks to KOIN TV, channel 6 for the donation of 37, 3/4 inch tapes that we desperately needed. We use these tapes to send to cable companies in the USA and Canada who play our 8 year old show "Give 'Em Back." Tapes wear out, tapes aren't returned or they get lost. There is a continual need for VHS and 3/4 inch tapes. We show over 25 MISSING CHILDREN per show, which is produced twice a month.

Special thanks to Don Willis and his brother Gary.

Don's company, D. Willis and Assoc.



HAPPY NEW YEAR

sells coupon books door to door in Portland and Vancouver WA. There is a picture of a MISSING CHILD on every coupon in the book. Don is just starting with us but he is no stranger to our center. Over a year ago Don and Gary came to our center bearing gifts of desks, filing cabinets, a 12 foot conference table, 2, ten foot wall room dividers etc....Gary is in the salvage business and has access to these items. We finally had to tell them that we had no more room. A big handshake and a hug to both of you.

buys the necessary materials himself if we don't have the funds available. This man has never asked for anything in return. His heart is as big as a house and our words alone will never be able to really express our thanks to him.

Debbie Montoya

INVESTIGATIONS

TELL IT LIKE IT IS

On some of the child abduction cases I'm working on I am narrowing down who I'm actually looking for. It would help if we as a society didn't make it so easy to become someone else. One day your name is Luke, the next day it's John, with a whole new identity and social security number.

Let's continue to keep our eyes open for suspicious happenings as we all try to make a difference.

thom

Special Thanks to Paul Hamrah and his staff at GIFT CHECKS in San Jose California.

Pauls company has been selling coupon books door to door. His company has had a partnership with NMCLC for over a year now and he's helped us pay our bills and helped us to reunite parents and MISSING CHILDREN. Thank you Gift Checks.

A VERY SPECIAL THANKS WITH HUGS AND KISSES to Ron Cudmore for all of his hard work and sweat and labor around our office. Ron has been volunteering his time to do construction work at the office. He has spent hundreds of hours over the last couple of months pounding nails, raising walls, installing ceilings and putting up with us. He even

Usually this time of year it slows down in the investigations department, but this year it was different...A lot of new cases are coming in and as always runaways continue to be a big part of the problem. We help everyone who calls in one way or another so they at least don't feel alone in their search. This coming year the investigations department is taking a step into the future and we will be upgrading our computer system to help in a more conventional way of finding missing children.

We're getting a few calls from people wanting information on how to get someone out of a cult. It's a great question and one I wish I had an answer for, but with some research and taking the time to learn more about the cult industry, I hope to have some answers.

STEPHEN'S JOURNEY

As Marilyn mentioned in her message on the first page, Stephen, our Vice President, Chief Investigator went to San Antonio Texas in December. He met with the executives of HOLD (Home Owners Long Distance). HOLD continues to be the major contributor to our organization. Without their generous contributions NMCLC would literally have to close their doors.

HOLD does a great service to NMCLC and the families we are able to help. It would be great if "Corporate America" was as conscientious as HOLD, and pitch in

and help out the non-profits of America. Most non-profits (us included) operate on a shoestring budget. There is so much more we could do for our community if the funds were available. If each large corporation could adopt one non-profit agency and donate funds to them, the non-profit agencies wouldn't have to struggle so hard. Believe me, the rewards are great, and the work is worth it.

We cannot thank HOLD enough for all that they have done for us.

Pictured from L to R: Stephen Jenkevics, Philip Dunn, Joe Webb, and Ed Dunn.



HELP

At this time of my life I really believed I had met and accomplished the majority of my challenges. Raising three children successfully I felt was my biggest. Well let me tell you I was wrong. Getting people to hear the cries of hurting children who desperately need help will turn out to be my BIGGEST and most challenging of all. But believe me, I don't intend to give up.

marilyn cudmore
public relations

CABLE CORNER

The "Give 'Em Back" show has been playing at cable companies nationwide for 9 years. One of the

topics that are being discussed involved dysfunctional families. Included in the discussion was sexual abuse, drug abuse, and spousal or child abuse.

Another show that was played recently was about unidentified deceased adults and children. The discussion included the idea that there is not enough being done about identifying them. There has been cooperation from coroners, medical examiners and law enforcement on sending us pictures of their unidentifieds for us to cross reference our files, as well as all missing children/persons organizations, so they can cross reference their files also. Someone, somewhere has known these Jane/John Doe's at one time.

The next show our producer is putting together now is "How to gather evidence." A personal invitation has been made to Detective Mike Hatch of the King County Police Department to be the guest. The topic will include what to do with the evidence and how the evidence is used in court.

The "Give 'Em Back" show is played in 48 cities currently. If you would like to see the show, please call your local cable company and find out if they play the show. If it is not being played and you are willing to sponsor the show please give us a call at (503) 257-1308, ask for Sondra. A sponsor is just responsible for taking the tapes to the cable co. and returning them to our office once a month.

sondra mann
video production
manager

HELLO FROM OTTAWA

It does grievous harm to organization such as ours when small

minded profiteering companies exploit the public sympathy in relation to missing children.

One such case took place in Ottawa in December of 1994. Our office received an inquiry from a concerned citizen who had applied for a position as a sales executive for a company known as "Canadian Mail Distributors (CMD)", who claimed affiliation with "MISSING CHILDREN". The selling point as explained to him to tell potential advertising clients was that CMD would donate 25% of the advertising fee to MISSING CHILDREN. The citizen wanted to know if our centre was aligned with CMD. Tim Armstrong, our acting president, informed the citizen that we were not and thanked him for the information. Tim contacted Sgt. Oliver at the MISSING CHILDREN'S REGISTRY of the ROYAL CANADIAN MOUNTED POLICE. Sgt. Oliver informed Tim that he had no information on CMD. Tim then turned the information over to myself. I called the company and applied for a position. At my interview I was informed that CMD was affiliated with the RCMP and that the photos of MISSING CHILDREN were supplied by the MISSING CHILDREN'S REGISTRY and other law enforcement agencies. I asked repeatedly if this information was expected to be told to clients in that we (CMD) were working with the RCMP. Yes was the reply. I went on with the course of the interview and accepted the position. Before I ended the meeting I told CMD that I had a friend who would also like to work for the company. After the meeting I informed Tim of the body of the interview.

Tim and I then went to see Sgt Oliver along with the material obtained from CMD. Sgt. Oliver then placed a call to "A" Division, RCMP Criminal Investigations, to see if an undercover agent would be available to be the "friend who wanted a job" I had told CMD about. At our next meeting unfortunately the "A" Division was overburdened with

active cases. I went alone the next day, and again under Sgt. Oliver's instructions asked for proof of RCMP affiliation to show clients. I was told that I had to tell the client letters from the RCMP were forthcoming and that the client could call CMD and they would give the name and telephone number of their RCMP contact. After the meeting I spoke to Sgt. Oliver and he told me to pull out. Sgt. Oliver again spoke with "A" Division and legal advisors. He was told to call the company and lay the law to them, of course they denied any such statements.

That afternoon CMD called me to see when I would start employment. It was then that I told CMD that I had found out that they were not involved with the RCMP. They stated then (heard by Tim and others at the NMCLC office) that they received the photographs from Victims of Violence. Tim called the founder at Victims of Violence and she had no knowledge of this. It was agreed between the two of us to take CMD

down by media exposure and subsequently our local watchdog with CTV interviewed Tim from NMCLC and Rob at Victims of Violence, along with crashing into the office of CMD with cameras rolling.

The company has since shut down, and with our national news coverage the public and businesses are aware of this exploitation of MISSING CHILDREN.

This story happens all the time. All you have to do is make a phone call to check on any fundraising going on. Always ask for a phone number where you can call them back and a phone number of the organization they are raising the funds for. We can put a stop to this sort of thing, but we can't do it alone. We need your help.

ron wilson

chief investigator



WELCOME TO

Harry Oakes Jr. and the Mountain Wilderness Search Dogs, search, rescue and recovery team have moved into a spare room in our office. Harry has made his team and experience available to us at a moments notice.

The services that Harry offers to the public are the Help Us Find You (H.U.F.Y.) program. The course teaches people between the ages of 3 and 103 how to survive if lost in the wilderness, and ages 3 to 12 how to survive if lost in the city.

The other programs available are:

Fight Back-Women and childrens self defense programs.

Dog obedience/First aid-Behavior problems and private instructions.

Childrens Registry Center-Register and I.D. on file internationally.

N.W. Pet Find-Pet registration, animal hotline. Please call (503) 257-1308 for more information.

**NATIONAL MISSING CHILDREN'S LOCATE
CENTER, INC.**

P.O. BOX 20007

PORTLAND, OR 97220

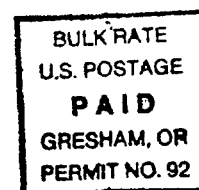


EXHIBIT 2

**JANUARY 3, 1995 LETTER
TO CHAIRMAN HUNDT**

HELEIN & WAYS DORF, P.C.

ATTORNEYS AT LAW
1850 M STREET, N.W.
SUITE 550
WASHINGTON, D.C. 20036
TELEPHONE: (202) 466-0700
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TELEIN ASSOCIATES, INC.
TELECOMMUNICATIONS CONSULTING

COMMUNICATIONS INFOMATICS
COMPANY (CIC)
DATABASE SERVICES

January 3, 1995

WRITER'S DIRECT DIAL NUMBER:

(202) 466-0702

VIA HAND DELIVERY

Chairman Reed Hundt
Federal Communications Commission
1919 M Street, N.W.
Room 814
Washington, D.C. 20554

Dear Chairman Hundt:

We are writing about a matter of grave concern to the undersigned company, Home Owners Long Distance, Inc. (hereafter referred to as "HOLD"). HOLD is an interexchange carrier based in San Antonio, Texas. HOLD provides long distance telephone services on a "switchless resale" basis using the facilities of underlying facilities-based carriers. HOLD provides service primarily to residential subscribers with relatively low volumes of monthly usage. As detailed herein, HOLD's concerns stem from remarks made by you at the Commission's agenda meeting of November 10, 1994 and reported in Communications Daily and potentially other trade publications as well.

HOLD has been successfully providing long distance services since 1990. HOLD provides interstate and international services pursuant to tariffs on file with the FCC and a Section 214 certificate that was granted in 1990. HOLD also provides intrastate service in over 46 states and operates where required pursuant to Certificates of Public Convenience and Necessity that have been granted by appropriate state authorities.

In its provision of long distance services, HOLD diligently complies with all state and federal rules, laws and regulations governing its service. Notwithstanding this compliance, HOLD is concerned that it may have been singled out by yourself and this Commission as an "example" of the "questionable" practices that the Commission apparently feels are present in the long distance industry and are harming consumers of long distance telephone services.

Chairman Reed Hundt
January 3, 1995
Page 2

HOLD's concerns stem from an article that appeared in the November 11, 1994 issue of Communications Daily.¹ That article addressed the Commission's action at the November 10, 1994 agenda meeting initiating a Notice of Proposed Rulemaking proposing new rules to prevent the unauthorized switching of customers' long distance carriers. See Notice of Proposed Rulemaking, In re Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers, CC Docket No. 94-0129, FCC 94-292 (released November 10, 1994). The rules proposed by the Commission specifically address the use of contests or other promotional inducements in conjunction with the marketing of long distance services.

In its presentation of the item before the Commission, the Common Carrier Bureau showed the Commission two examples of what the attached trade press article refers to as "questionable mailings." One of the examples used, according to the Bureau, "urg[ed] readers to "help find missing children" by registering for a \$25,000 drawing." You are then quoted in the article as stating that using missing children is "really disgusting."

The companies addressed by you and the Bureau were not identified either in the attached article or at the agenda meeting, because, as stated in Exhibit 1, they are being "investigated" by the Commission. Exhibit 1, p. 2. The reason for HOLD's concern, however, and the reason why it is writing this letter, is that there are certain similarities between HOLD's marketing practices and the practices that you cited. HOLD does utilize, as part of its marketing of its long distance services, a contest with a yearly grand-prize drawing, which for 1994 was a \$25,000 cash award. HOLD also contributes a portion of its long distance revenues to the National Missing Children's Locate Center, Inc. of Portland, Oregon, and its Letters of Agency ("LOA") that are used by consumers to sign up for HOLD's service contain the language "Help Find Missing Children." However, as discussed below, HOLD has carefully structured its marketing program, including its LOAs, in order to avoid customer confusion.

HOLD therefore is confident that it is not the Company that is being "investigated" by the Commission, particularly since it has not been informed of any pending investigation by the Commission. Nevertheless, because of the similarity of its marketing practices to those singled out in your remarks, HOLD feels that it is important to its business reputation — and therefore its future ability to continue to provide long distance services to residential subscribers — that this letter educate you and the Commission as to the actual facts and circumstances involved in HOLD's operations. It is apparent to HOLD that your remarks at the agenda meeting were made without a full understanding of those facts. HOLD therefore respectfully submits that,

¹A copy of this article is attached hereto as Exhibit 1.

Chairman Reed Hundt
January 3, 1995
Page 3

once you are aware of these facts, there will be no basis whatsoever for a conclusion that HOLD's marketing practices are "disgusting" in any way.²

First, it is instructive to examine HOLD's LOA itself.³ Contrary to the Bureau's remarks, the LOA does not urge readers to "help find missing children" by registering for a \$25,000 drawing. Rather, the LOA states that those who complete an entry form will participate in a grand prize drawing, and, in a completely separate paragraph on the back of the LOA, in clearly legible print, it is stated that customers of HOLD's long distance services will be helping to find missing children because a portion of HOLD's long distance subscriber revenues is donated to the National Missing Children's Locate Center. Moreover, the form is clearly entitled, in bold-face type of 1/4 inch size, a "Long Distance Application." The fact that the form is an application for long distance services is not buried in "fine print at the bottom of the mailing", which is how the Bureau characterized the LOAs addressed at the agenda meeting. Rather, that the form is an LOA is clearly stated, up-front, and then described further in the bottom of the LOA as currently required by Section 64.1100 of the FCC's Rules.⁴

But more importantly, HOLD would be shocked to find out that the Commission feels that the donations made by HOLD to a charity that helps to find missing children are "disgusting." As evidenced by the attached letter from the National Missing Children's Locate Center, Inc., that organization certainly has a different opinion of HOLD's contributions.⁵ In this letter, the organization thanks HOLD for its "generous contributions", without which the organization "would literally have to close [its] doors." Moreover, HOLD's marketing program includes a display of photographs of missing children that is provided to HOLD by the National Missing Children's Locate Center (similar to those found on milk cartons, etc.), along with a toll-free number to report sightings and information on such children. These materials are displayed in public areas in small towns and large cities across the nation, reaching hundreds of thousands of people daily. In this manner, HOLD is able to assist the charity in distributing valuable information on a scale which the charity acting alone could not hope to achieve.

²HOLD will, of course, revise its marketing practices to conform to any new rules that may be adopted by the Commission in response to the Notice of Proposed Rulemaking. Additionally, if HOLD is otherwise notified that certain changes in its practices would be beneficial to consumers, it will fully cooperate with the Commission with respect to any suggestions made.

³A copy of HOLD's current LOA is attached as Exhibit 2.

⁴All information currently required by the FCC's Rules is contained in HOLD's LOA.

⁵The letter is attached hereto as Exhibit 3.

As for the \$25,000 prize drawing, there has never been any question as to the validity of the drawing since the annual drawing was initiated in 1992. Each year the prize is awarded as represented based on a drawing supervised by a public accounting firm. The 1994 drawing has just been completed and the prize money has been delivered to the winner, a family in Oklahoma, who plans to use the funds towards rebuilding the family's home, which was lost in a fire. Again, it is hard to square these facts with a characterization of HOLD's business practices as "disgusting."

It is also important to point out the procedures that HOLD follows once a signed LOA is received from a customer. Rather than immediately initiating a PIC change upon receipt of a LOA, HOLD's policy is to instead follow up each signed LOA with a written confirmation letter to the customer, accompanied by a "welcome package" that describes HOLD's services, including its donations to the National Missing Children's Locate Center. This package also provides the customer with a toll-free telephone number which can be used to reach HOLD with any questions about the service or to simply decline the switch to HOLD's services. Moreover, HOLD then waits two and one-half weeks after the package is sent out before initiating a PIC change with the local exchange carrier. In this way, not only are all customers once again fully informed about HOLD and its services — including the specific manner in which it helps to find missing children — but consumers also are provided with an opportunity to change their mind about switching their long distance carrier.

HOLD is proud of its commitment to the National Missing Children's Locate Center and is proud of its ability to perform a grand prize drawing each year. Although it is a small company, with a small fraction of the revenues of the "Big-Three" long distance companies, HOLD feels it is important to make a tangible and meaningful contribution to the welfare of the community which makes up its customer base.

HOLD also is proud of its commitment to full compliance with the FCC's regulations concerning the marketing of long distance services. As described above, HOLD has structured its LOAs to meet the FCC's currently effective rules. You therefore should be able to appreciate HOLD's dismay when it detected through a trade press article that there may be an ongoing investigation.

HOLD acknowledges that it has received notices of informal complaints that have been filed at the FCC over the past few years. However, HOLD has fully responded to both the Commission and the customer, on a timely basis, with respect to each of the filed informal complaints. In no case has HOLD been informed that a further investigation is being conducted or even that further information, beyond that already submitted by HOLD, is requested. HOLD would hope that, if an on-going investigation is being conducted, the Company would be informed of that fact and provided with a suitable opportunity to fully address any concerns or

comments of the Commission before any action is taken. To deprive HOLD of such an opportunity surely would be a gross miscarriage of justice.⁶

HOLD is aware that the Commission's rulemaking proceeding is contemplating imposing rules that would govern the advertising of contests and other promotional inducements on the same document as the customer LOA. HOLD will, of course, fully comply with any rules that the Commission ultimately adopts in that proceeding. Moreover, HOLD welcomes the efforts of the Commission to address the marketing practices of those companies that are not as careful as HOLD is in the structuring of their marketing programs. However, HOLD also intends to file comments in that proceeding that will bring to the Commission's attention the adverse impact that certain aspects of the proposed rules will have on the smaller long distance companies, particularly those that target the residential market, and on the ability of such carriers to reach that target market. In adopting rules to address the issues raised by the Commission, it is crucial that it be kept in mind that residential subscribers typically receive far less attention from telephone companies than do higher volume business customers. Therefore, companies such as HOLD that provide residential subscribers with one of the few available alternatives to the "Big-Three" telephone companies are important to the proper functioning of the competitive market-

⁶HOLD submits that an examination of its responses to the informal complaints filed reveals that in every case in which a customer has alleged that its long distance service was switched to HOLD without its consent, HOLD switched the customer back to its previous service and unilaterally issued a refund to the customer—which, depending on the circumstances, was either for the full amount of any calls made while on HOLD's services, including any local exchange carrier PIC change charges, or for the difference between the charges assessed by HOLD and the charges that would have been incurred by the customer if service had remained on its desired carrier during the time period in question. HOLD would be happy to provide you with further information on any (or all) of the informal complaints that have been filed concerning the company. As a general matter, however, HOLD would like to point out that the number of complaints that have been filed concerning its services, in proportion to the number of customer contacts made by HOLD each year, is minuscule. HOLD has signed up approximately 500,000 customers over the past two years. In contrast, less than 30 informal complaints have been filed by customers at the FCC each year, representing only 0.00006% of customers. The Commission must recognize that in marketing to residential subscribers, there inevitably will be instances of customer confusion and "buyer's remorse" despite the best efforts of any company to prevent such occurrences. That is precisely why HOLD sends to each customer for which it has received a signed LOA a confirmation letter and a "Welcome" package, and then waits two and one-half weeks after the package is sent out before initiating a PIC change with the local exchange carrier. HOLD feels that in this way it is able to prevent as much as possible instances in which it inadvertently switches a customer to HOLD's services against the customer's wishes.

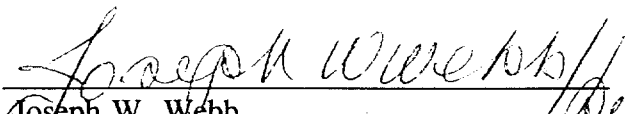
Chairman Reed Hundt
January 3, 1995
Page 6

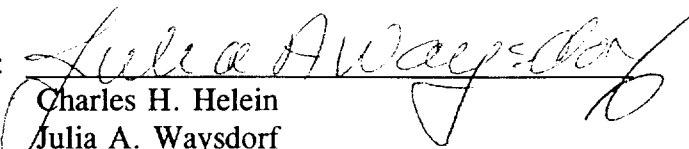
place and the ability of residential subscribers to take advantage of the benefits of that competition, and it is important that any rules adopted not stifle the ability of such companies to effectively market their services in a cost-effective manner.

In summary, HOLD hopes that this letter has avoided any misconceptions and/or prejudgments that the Commission may have made concerning HOLD's operations and services. After you have had an opportunity to review this letter, HOLD will seek an audience with you, at your earliest convenience, to discuss these matters further on an in-person basis. At that meeting, HOLD also may bring a representative of the National Missing Children's Locate Center. HOLD also will be soliciting the input of its Congressional representatives as well as the representatives of the National Missing Children's Locate Center, which is based in Portland, Oregon, in order to further explore these issues. In the interim, please feel free to contact HOLD's President, Joseph Webb, at (210) 525-8152, or the undersigned counsel.

Sincerely,

Home Owners Long Distance, Inc.

By: 
Joseph W. Webb
President

By: 
Charles H. Helein
Julia A. Waysdorf
Its Attorneys

Helein & Waysdorf, P.C.
1850 M Street, N.W.
Washington, D.C. 20036
(202) 466-0700

Enclosures

cc w/encl: Karen Brinkmann

EXHIBIT 1

[TE01.111494.006]

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COMMUNICATIONS DAILY [TE01] via NewsNet

Monday November 14, 1994

FCC PLANS CRACK-DOWN ON SLAMMING BY LONG DISTANCE COMPANIES

At agenda meeting Thurs., FCC proposed new rules to prevent long distance companies from switching customers without their knowledge -- practice known as "slamming." It said it was acting on its own initiative after receiving 4,000 customer complaints over 2 years about misleading practices in which users weren't aware their telephone companies were being changed.

Before long distance companies can pick up new customers previously served by other carriers, they're supposed to get customer authorizations, which they usually do through written letters of agency (LOA). However, FCC staff said some companies get customers to sign LOAs without realizing they're doing so. Most common ploy is to send mailings asking people to sign up for contest. When customers do so, they're actually signing LOA, usually is explained in fine print.

Bureau showed 2 examples of questionable mailings, one offering chance to win Hawaiian vacation, another urging readers to "help find missing children" by registering for \$25,000 drawing. In both cases, customers' long distance companies were switched when they responded because responses constituted LOAs according to fine print at bottom of mailings. Neither company was identified because they're being investigated by Commission. FCC Chmn. Hundt said gimmick using missing children is "really disgusting." Commission staff said other ploys are used, such as sending people checks for \$45 and, when they sign to endorse them, signatures constitute LOAs.

Rules proposed by FCC to counteract such practices: (1) LOAs must be separate from other promotional materials. (2) Content of LOAs must be limited strictly to authorizing change in long

distance carriers. (3) They must be clearly identified as LOAs, language must be clear and print must "be of sufficient size and readable size to be clear to the consumer." FCC staff emphasized that problem doesn't involve more established long distance companies, many of which urged Commission to take action.

Commission said it's particularly concerned about Spanish-speaking and other non-English-speaking people because such marketing actions appear to be targeted to them. Agency has issued consumer report in Spanish and designated Spanish-speaking FCC staff member to handle calls. "We're shouting from the treetops about this because we want to make sure consumers are informed," FCC spokeswoman said. Commission also plans to seek comment on whether it should require full translation of LOAs. Staff said some solicitations translate only part of LOAs, adding to confusion.

In other action at Thurs. meeting, Commission modified rules for broadband PCS auction to make it easier for designated entities (DEs) to attract capital. Among changes was clarification of requirement that DE's control group must own at least 25% of total equity. Commission said part of that portion can be held by passive institutional investors or members of applicant's company who don't happen to be women or minorities.

Hundt issued statement objecting to what wasn't included in modifications -- he said he favored changing to 7 years from 5 holding period before designated entities can transfer licenses to nondesignated entities. He said longer term would discourage investors from viewing minorities or woman as fronts: "Various DEs have reported that in their negotiations with some strategic investors, the investors expressed less interest when the DEs characterized themselves as potential long-term partners. Instead, some investors appear to prefer DEs who commit to selling in 5 years. In order to minimize the number of applicants that simply want to cash out rather than actually participate in the communications infrastructure, designated entities have suggested proposals to extend the DE holding term to 7 years."

EXHIBIT 2

FRONT



LONG DISTANCE APPLICATION & ENTRY BLANK

= **HELP FIND MISSING CHILDREN** =
(PLEASE PRINT)



HOME PHONE # () _____ 19 ____
DE TELEFONO EN CASA AREA CODE MONTH DAY YEAR

→ NAME THIS NUMBER IS LISTED UNDER _____
NOMBRE DE LA PERSONA BAJO ESTE TELEFONO NAME MUST APPEAR EVEN IF UNLISTED

ADDRESS _____ APT. # _____
DIRECCION

CITY _____ STATE _____ ZIP _____
CIUDAD ESTADO CODIGO POSTAL

→ SIGNATURE _____
FIRMA

Marital Status

- ☐ MARRIED
☐ SINGLE

Age

- ☐ Under 21
☐ 21 or over

(Appropriate age box must be checked)

MUST BE SIGNED AND FULLY COMPLETED TO QUALIFY

Yes! I would like \$60 CASH, and to help find missing children. Enter my name in the \$35,000 CASH or HIS AND HERS GRAND PRIZE drawing. In addition to the grand prize drawing, enter my name in the monthly drawing for the 25" remote color TV. By signing above, I designate Home Owners Long Distance, Inc. (HOLD) as my agent to cancel my agreement with my existing carrier in favor of new service with HOLD, for my 1+ long distance service only, and understand that: I can have only one 1+ long distance service and any previous selection of a 1+ long distance company made by me will be cancelled. I am the person legally responsible for charges on the telephone number written above. Charges for my 1+ long distance from HOLD will be billed by my local telephone company and I understand that my local telephone company may charge me a one time charge of up to \$5.00 plus tax for this selection. HOLD'S network transmission services are provided by MCI, LDDS / Metromedia or Allnet. I hereby disallow any further changes to my service unless authorized by me in writing.

☐ By checking this box, I am deciding that I do not wish to change my long distance service. Please enter my name in the drawing only.
Copyright 1994 Home Owners Long Distance, Inc. 1-800-879-4653

Form AP Rev. 10/94

BACK

LONG DISTANCE OFFER

When you select Home Owners Long Distance, Inc. (HOLD) as your 1+ long distance company by completing the Letter of Agency on reverse side, HOLD will provide \$60.00 CASH in the form of 4 coupons mailed to you with a welcome letter before your service is changed to HOLD. Once every three months one of the coupons must be sent to HOLD to receive a check for \$15.00 by return mail for a total of \$60.00. HOLD'S Long Distance rates are: 25¢ per minute daytime (8 a.m. - 5 p.m.) Monday through Friday, to anywhere in the continental 48 states. 20¢ per minute for all other times.

Each time a subscriber obtained through this promotion uses Home Owners Long Distance, Inc. (HOLD) as their long distance service, HOLD will make a monthly donation of 2% to National Missing Children's Locate Center, Inc., Portland, Oregon 97220, (503) 257-1308 to help find missing children.

OFFICIAL CONTEST RULES

This offer is void in any state where prohibited by law. You must be 18 years old or older to enter. No purchase necessary to win. One entry per family. Do not need to be present to win. Prize drawing is for \$35,000 CASH or HIS AND HERS GRAND PRIZE (MSRP \$38,600 combined total). Odds: 1 in 900,000. In addition to the grand prize drawing, there is a monthly drawing for a 25" remote color TV (MSRP \$300). All federal, state and local taxes are the sole responsibility of the winner. Winner will be notified by mail. The Grand Prize will be awarded November 30, 1995. For the name of the Grand Prize winner send a self-addressed, stamped #10 envelope to Home Owners Long Distance, Inc. • P.O. BOX 690670 • San Antonio, Texas 78269. This advertising material is being used for the purpose of obtaining Letters of Agency for telephone customers to change their long distance service.

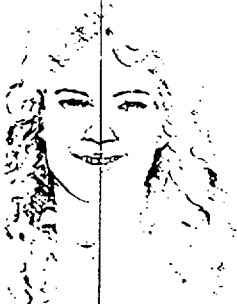
NOTE: FLORIDA RESIDENTS ONLY: A COPY OF THE OFFICIAL REGISTRATION AND FINANCIAL INFORMATION MAY BE OBTAINED FROM THE DIVISION OF CONSUMER SERVICE BY CALLING TOLL FREE 1-800-HELP-FLA, WITHIN THE STATE OF FLORIDA. REGISTRATION DOES NOT IMPLY ENDORSEMENT, APPROVAL OR RECOMMENDATION BY THE STATE.

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P.O. BOX 690670 • San Antonio, Texas 78269 • 1-800-879-4653

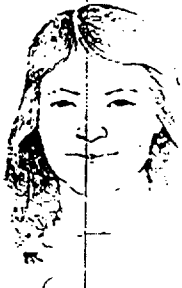
Form AP Rev. 10/94

EXHIBIT 3

MISSING

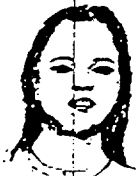


MISSING



PFB-34

DO YOU KNOW ME?



U-14

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NATIONAL MISSING CHILDREN'S LOCATE CENTER, INC.
P.O. BOX 20007, PORTLAND, OR. 97220
(503) 257-1308 FAX: (503) 257-1443

H.O.L.D

December 1, 1994

PO BOX 690670

San Antonio, TX 78269

Dear H.O.L.D. Board Members:

We at NMCLC would like to thank H.O.L.D. during these joyous holidays. Before Home Owners Long Distance decided to take on National Missing Children's Locate Center, Inc. as a project, we had to beg to get our pictures distributed. We approached Truckers and asked them to distribute the pictures along the highways. We also had a few volunteers in different states that promised to distribute the pictures for us. Some did. Most didn't.

With HOLD, our pictures are seen in small towns and large cities nationwide. They are on the boxes in different states, in large volume areas such as restaurants, shopping malls and grocery stores. With 3 pictures on each box, times 15,000 boxes, that is a tremendous amount of pictures of MISSING CHILDREN being circulated. Changing the pictures every 3 to 4 months allowed us to receive numerous sighting calls on these children.

NMCLC has received over \$200,000.00 since the beginning of the project. The success of the picture distribution is wonderful. And without HOLD's generous contributions to our organization, we would literally have to close our doors.

NMCLC would like to thank HOLD for taking us on as a project and for all of the donations we have received. The families of these children appreciate the fact that their child's picture is getting out to the public.

Our Board of Directors and employees of NMCLC feel that H.O.L.D as a company really cares. It is one of the few compassionate corporations out there. Without your compassion and money our organization would not exist. Our return and recovery record would be less and we would be back in a small office in a garage.

501(C)3

ID #93-0814689